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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

GILBERT and WAKARCHUK

Application No.: 10/820,536

Filed: April 7, 2004

For: NUCLEIC ACIDS ENCODING
SIALYLTRANSFERASES FROM C.
JEJUNI

Customer No.: 20350

Confirmation No. 8839

Examiner: Sheridan Swope

Technology Center/Art Unit: 1656

SUPPLEMENTAL RESPONSE AND
TERMINAL DISCLAIMER SUBMISSION

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to a facsimile transmission from Examiner Swope, please enter the
attached signed terminal disclaimer.

REMARKS/ARGUMENTS

Rejections for obviousness-type double patenting

Claim 43-46 are rejected as allegedly unpatentable under the judicial doctrine of obviousness type double patenting over claims 1-15 of U.S. Patent No. 6,699,705 and claims 43-58 of USSN 10/734,719. In order to expedite prosecution of this application, Applicants submit a terminal disclaimer of the term of a patent granted on the instant application over U.S. Patent No. 6,890,725 and any patent granted on pending US Application Number 10/734,719.

Applicants note that the filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. See, MPEP §804.02. Accordingly, Applicants respectfully request withdrawal of the rejection.